

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2000-362-C - ORDER NO. 2000-871  
OCTOBER 24, 2000

IN RE:	Application of ServiSense.com, Incorporated	)	ORDER
	for a Certificate of Public Convenience and	)	GRANTING
	Necessity to Provide Local Exchange and	)	CERTIFICATE
	Intrastate Interexchange Telecommunications	)	
	Services, for Alternative Regulation of Its	)	
	Interexchange Telecommunications Services	)	
	and for Flexible Regulation of Its Local	)	
	Exchange Service Offerings	)	
		)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of ServiSense.com, Inc. ("ServiSense.com" or the "Company") for authority to provide local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Application was filed pursuant to Chapter 9 of Title 58 of the South Carolina Code Annotated, and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the

areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on August 31, 2000.

On October 9, 2000, counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until ServiSense.com provided written notice of its intent prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. ServiSense.com agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on October 11, 2000, at 10:30 a.m. in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided.

ServiSense.com was represented by Weston Adams, III, Esquire. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Richard Wheeler, Regulatory Affairs Coordinator at ServiSense.com, appeared and testified in support of the Application. Mr. Wheeler is the Regulatory Affairs Coordinator at ServiSense.com. He is an attorney who provides regulatory counsel to the Company, representing it before federal and state regulatory agencies. Additionally, Mr. Wheeler provides general counsel to the Company on legal matters ranging from corporate and intellectual property issues to employment and account collection. Upon receiving certification from the Commission, ServiSense.com plans to provide all forms of intrastate, long distance, and local exchange telecommunications services within the State of South Carolina. The Company markets itself as a bundler of utility services. Therefore, not only does the Company provide telecommunications services for its customers, ServiSense.com acts as a billing agent for electricity, natural gas, and home heating oil (this service is currently provided in Massachusetts). As a result of ServiSense.com acting as a billing agent, the Company offers its customers a discount on their utility bills.

Mr. Wheeler discussed the Company's technical, financial, and managerial ability to provide telecommunications services in South Carolina. The testimony reveals that ServiSense.com is not currently providing telecommunications services within the State of South Carolina. The Company has entered into an interconnection agreement with BellSouth. Additionally, ServiSense.com will rely on the technical ability of the underlying carrier. The Company also has a technical team led by the Company's Vice

President for Information Technology who is responsible for managing the technical aspects of the Company. The Company's underlying carrier is Qwest.

Regarding the Company's managerial ability to provide telecommunications services, Mr. Wheeler testified ServiSense.com has a strong managerial team led by Christopher J. McKeown, President and Chief Executive Officer of the Company. According to the record, Mr. McKeown has a diverse operations and management background in the United States military, the public utility sector and the charitable non-profit sector. Lori Espino is the Company's Vice President of Information Technology and Services. The record reveals Ms. Espino is an accomplished information services expert in the energy and consumer retail industries and has over a decade of solid strategic systems development and implementation expertise. For example, prior to joining ServiSense.com, Ms Espino was the Vice President of Information Services for EnergyUSA, a subsidiary of Fortune 500 company, NISource, Inc., where she spearheaded the development an implementation of a comprehensive customer information system. David Dane is the Company's Vice President of Customer Care and Operations. Mr. Dane has twenty years of senior management experience in the cable and telecommunications industries in the Northeast. The record reveals that since 1997, Mr. Dane was Regional Director of Operations for Cablevision of Massachusetts where he was responsible for all customer care and field service operations, collections and information systems for the company's 360,000-customer regional cable system.

Regarding the Company's financial ability to provide telecommunications services in South Carolina, Mr. Wheeler testified ServiSense.com is in the process of

closing another round of venture capital financing of approximately eight million dollars within the next several weeks. Therefore, Mr. Wheeler stated he is confident that the Company's financial ability to provide telecommunications services in South Carolina will be strong going forward.

The Company also request flexible regulation of its local service offerings and alternative regulation of its business service offerings. Additionally, the Company requests that the Commission waive 26 S.C. Code Ann. Regs. 103-610 (1976) so that the Company can maintain its records outside the State of South Carolina and in the State of Massachusetts and a waiver of 103-631 (1976 and Supp. 1999) so that ServiSense.com will not have to publish a directory and provision for a directory will be handled in the Company's resale agreement(s). Mr. Dane is the contact person for billing inquiries; Mr. Wheeler is the Company's regulatory contact person.

The Company's customer service department is available twenty-four hours a day, seven days a week. Customer service is provided over the Web and by telephone. Repair orders are handled by the underlying carrier. Mr. Dane is also the customer care contact person. The Company uses a letter of authorization and a third party independent verifier to verify that a customer wishes to switch carriers.. Marketing of ServiSense.com's services is performed by face to face campaigns through door-to-door sales, direct mail, and the Internet. The Company does not engage in telemarketing to market its services to the public.

ServiSense.com is currently certified in thirty states to provide local services and the Company is certified in thirty-eight states to provide long distance services. The

Company is currently providing its services in Maryland, Massachusetts, New York, and Pennsylvania. According to the testimony, ServiSense.com has never had authority denied in any state where it has applied for authority. Additionally, the Company has never had authority revoked by any state where ServiSense.com has been granted authority nor has the Company been fined, sanctioned or the subject of an investigation by a state or federal regulatory body. Mr. Wheeler also testified the Company has not marketed its services in South Carolina prior to ServiSense.com receiving certification from the Commission.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. ServiSense.com is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. ServiSense.com is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. ServiSense.com has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that ServiSense.Com's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 1999).

5. The Commission finds that ServiSense.com will support universally available telephone service at affordable rates.

6. The Commission finds that ServiSense.com will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by ServiSense.com "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 1999).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to ServiSense.com to provide competitive intrastate non-rural local exchange service in South Carolina. The terms of the Stipulation between ServiSense.com and SCTC are approved, and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation. In addition, ServiSense.com is granted authority to provide intrastate interLATA interexchange service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. ServiSense.com shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

ServiSense.com's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for ServiSense.com's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, ServiSense.com's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. The Commission adopts a rate design for the long distance services of ServiSense.com which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation, the business service offerings of ServiSense.com including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an



investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to ServiSense.com also.

4. With regard to the interexchange residential service offerings of ServiSense.com, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. ServiSense.com shall not adjust its interexchange residential rates below the approved maximum level without notice to the Commission and to the public. ServiSense.com shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking

proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

6. If it has not already done so by the date of issuance of this Order, ServiSense.com shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

7. ServiSense.com is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

9. ServiSense.com shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If ServiSense.com changes underlying carriers, it shall notify the Commission in writing.

10. With regard to the origination and termination of toll calls within the same LATA, ServiSense.com shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the

Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. ServiSense.com shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations for Interexchange Companies and AOS".

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

ServiSense.com shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" for which can be located at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms) to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

13. ServiSense.com shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any

and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

14. By its Application, ServiSense.com requested a waiver of 26 S.C. Code Ann. Regs. 103-610 and 103-631 (1976 and Supp. 1999). The Company requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so it may maintain its records required by the Public Service Commission rules or necessary for the administration thereof, in Massachusetts. The Company also requests a waiver 26 S.C. Code Ann. Regs. 103-631 (Supp. 1999) so that the Company may include provisions in its interconnection agreements for ILECs to provide ServiSense.com's customers with directory listings. We grant the Company's request for a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) and 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 1999). However, the Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs ServiSense.com to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an

information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, ServiSense.com shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

16. ServiSense.com shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, ServiSense.com shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The “Annual Report for Competitive Local Exchange Carriers” form can be located at the Commission’s website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form shall be utilized by the Company to file annual financial information with the Commission.

OCTOBER 25, 2000

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17. This Order shall remain in full force and effect until further Order of the Commission.

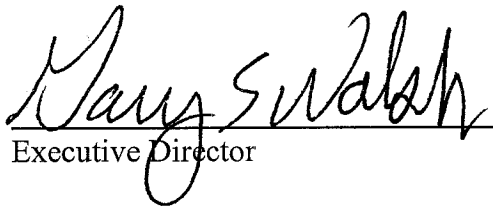
BY ORDER OF THE COMMISSION:



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Chairman

ATTEST:



Executive Director

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2000-362-C

Re: Application of Servisense.Com, Inc. for a )  
Certificate of Public Convenience and Necessity )  
to Provide All Forms of Intrastate Long Distance )  
and Local Exchange Telecommunications )  
Services in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Servisense.Com, Inc. ("Servisense.Com") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Servisense.Com's Application. SCTC and Servisense.Com stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Servisense.Com, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Servisense.Com stipulates and agrees that any Certificate which may be granted will authorize Servisense.Com to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Servisense.Com stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. Servisense.Com stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless

and until Servisense.Com provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Servisense.Com acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Servisense.Com stipulates and agrees that, if Servisense.Com gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Servisense.Com will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Servisense.Com acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Servisense.Com, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.



8. Servisense.Com agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Servisense.Com hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 6<sup>th</sup> day of October, 2000.

Servisense.Com, Inc.:

Weston Adams, III  
Attorney for  
Servisense.Com, Inc.

South Carolina Telephone Coalition:

Margaret M. Fox  
M. John Bowen, Jr.  
Margaret M. Fox  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.

Chesnee Telephone Company

Chester Telephone Company

Farmers Telephone Cooperative, Inc.

Ft. Mill Telephone Company

Heath Springs Telephone Company Inc.

Home Telephone Company, Inc.

Lancaster Telephone Company

Lockhart Telephone Company

McClellanville Telephone Company

Norway Telephone Company

Palmetto Rural Telephone Cooperative, Inc.

Piedmont Rural Telephone Cooperative, Inc.

Pond Branch Telephone Company

Ridgeway Telephone Company

Rock Hill Telephone Company

Sandhill Telephone Cooperative, Inc.

St. Stephen Telephone Company

West Carolina Rural Telephone Cooperative, Inc.

Williston Telephone Company

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

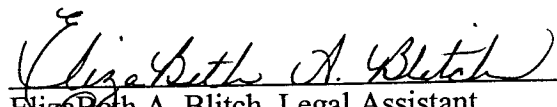
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Services in the State of South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Weston Adams, III, Esquire  
Weston Adams Law Firm  
Post Office Box 291  
Columbia, South Carolina 29202.

  
ElizaBeth A. Blich, Legal Assistant  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

October 9, 2000

Columbia, South Carolina